

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 673

Introduced by Senator Lara

February 27, 2015

An act to amend Section 25187.2 of, to add Sections 25200.21 and 25200.23 to, and to add and repeal Article 8.8 (commencing with Section 25199.20) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 673, as amended, Lara. Hazardous waste.

(1) The Hazardous Waste Control Law, among other things, authorizes the Department of Toxic Substances Control to regulate the generation and disposal of hazardous waste.

This bill would establish, until January 1, 2021, the DTSC California Communities Committee within the department and require the committee to make recommendations to the department to increase public participation in, and the transparency of, the department's decisionmaking. The bill would require the department, by July 1, 2018, to adopt additional criteria, as specified, for use in determining whether to issue a new *or modified* hazardous waste facilities permit or a renewal of a hazardous waste facilities permit, and to develop and implement programmatic reforms designed to improve the protectiveness, timeliness, legal defensibility, and enforceability of the department's permitting program.

(2) Existing law authorizes the Department of Toxic Substances Control to issue an order under the hazardous waste control laws requiring that a violation be corrected and imposing a civil penalty to specified persons, including a person who has violated various provisions regulating hazardous waste or provisions concerning removal and remedial actions for hazardous substance releases. A person who is issued that order is required to pay for oversight of the removal or remedial action. The existing Carpenter-Presley-Tanner Hazardous Substance Account Act, authorizes the department to take or oversee removal and remedial actions related to the release of hazardous substances.

This bill would require a person to pay for oversight of any corrective action required of the person with respect to hazardous waste.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25187.2 of the Health and Safety Code
2 is amended to read:

3 25187.2. If a person is required to take corrective action with
4 respect to hazardous waste, that person shall pay for oversight of
5 the corrective action. This section does not prohibit the department
6 or unified program agency from assessing any other penalty or
7 recovering any costs for oversight of a removal or remedial action,
8 pursuant to any other provision. Nothing in this section limits the
9 due process requirements of Section 25187.

10 SEC. 2. Article 8.8 (commencing with Section 25199.20) is
11 added to Chapter 6.5 of Division 20 of the Health and Safety Code,
12 to read:

13
14 Article 8.8. DTSC California Communities Committee
15

16 25199.20. (a) There is hereby established in the department,
17 the DTSC California Communities Committee composed of 13
18 members representing California residents affected by hazardous
19 waste. The committee members shall not include representatives
20 from the department or an entity regulated by the department
21 pursuant to this chapter.

22 (b) Members of the committees shall be appointed as follows:

1 (1) Five members appointed by the Secretary for Environmental
2 Protection, including a designated chair of the committee.

3 (2) Four members appointed by the Senate Committee on Rules.

4 (3) Four members appointed by the Speaker of the Assembly.

5 (c) Each member of the committee shall serve at the pleasure
6 of his or her appointing authority.

7 (d) Beginning March 1, 2016, the committee shall meet with
8 the Secretary for Environmental Protection or his or her
9 representative, the director, and department staff at least three
10 times during that year, then quarterly beginning in the 2017
11 calendar year on a schedule as agreed upon by the committee and
12 the director.

13 (e) The committee shall do both of the following:

14 (1) Provide information on the concerns of individual
15 communities impacted by the department's hazardous waste
16 permitting, enforcement, or remediation activities, and provide
17 input on outreach activities to increase public participation in those
18 communities.

19 (2) Make recommendations for changes in policies, procedures,
20 and standards of the department to increase public participation
21 in, and the transparency of, the department's decisionmaking,
22 including providing input to the director on ways to improve the
23 department's permitting of hazardous waste facilities and
24 enforcement and remedial actions, particularly with regard to public
25 participation and in communities identified pursuant to Section
26 39711 that are burdened by multiple sources of pollution.

27 (f) The committee shall, 30 days prior to each meeting, provide
28 the director with an agenda outlining the topics to be discussed at
29 the meeting.

30 (g) Upon receipt of the agenda, the department shall post the
31 agenda on its Internet Web site.

32 (h) The department shall provide appropriate meeting space for
33 meetings of the committee.

34 (i) Meetings of the committee shall be open to the public and
35 are subject to the Bagley-Keene Open Meeting Act (Article 9
36 commencing with Section 11120) of Chapter 1 of Part 1 of
37 Division 3 of Title 2 of the Government Code).

38 (j) The department shall provide the committee with appropriate
39 per diem compensation consistent with Section 19822.5 of the
40 Government Code.

1 25199.21. This article shall remain in effect only until January
2 1, 2021, and as of that date is repealed, unless a later enacted
3 statute, that is enacted before January 1, 2021, deletes or extends
4 that date.

5 SEC. 3. Section 25200.21 is added to the Health and Safety
6 Code, to read:

7 25200.21. On or before January 1, 2018, the department shall
8 adopt regulations establishing additional criteria that the department
9 shall use to determine whether to issue a new *or modified* permit
10 or a renewal of a permit pursuant to this article. These criteria shall
11 include, but are not limited to, all of the following:

12 (a) Number and types of past violations that will result in a
13 denial.

14 (b) The vulnerability of, and existing health risks to, nearby
15 populations. Vulnerability *and existing health risks* shall be
16 assessed using the CalEnviroScreen tool, local and regional health
17 risk assessments, the region's federal Clean Air Act attainment
18 status, and other indicators of community vulnerability, cumulative
19 impact, and potential risks to health and well-being.

20 (c) Minimum setback distances from sensitive receptors, such
21 as schools, child care facilities, residences, hospitals, elder care
22 facilities, and other sensitive locations.

23 (d) Evidence of financial ~~responsibility~~, *responsibility and*
24 ~~qualifications of ownership, and continuity of ownership and~~
25 ~~operation.~~ *ownership.*

26 (e) Provision of financial assurances pursuant to Section
27 25200.1.

28 (f) Training of personnel in the safety culture and plans,
29 emergency plans, and maintenance of operations.

30 (g) *Completion of a health risk assessment.*

31 SEC. 4. Section 25200.23 is added to the Health and Safety
32 Code, to read:

33 25200.23. On or before July 1, 2018, the department shall
34 develop and implement programmatic reforms designed to improve
35 the protectiveness, timeliness, legal defensibility, and enforceability
36 of the department's permitting program, including strengthening
37 environmental justice safeguards, enhancing enforcement of public
38 health protections, and increasing public participation and outreach
39 activities. In accomplishing these reforms, the department shall
40 do all of the following:

- 1 (a) Establish transparent standards and procedures for permitting
2 decisions, including those that are applicable to permit revocation
3 and denial.
- 4 (b) Establish terms and conditions on permits to better protect
5 public health and the environment, including in imminent and
6 substantial endangerment situations.
- 7 (c) Employ consistent procedures for reviewing permit
8 applications, integrating public input into those procedures, and
9 making timely permit decisions.
- 10 (d) Enhance public involvement using procedures that provide
11 for early identification and integration of public concerns into
12 permitting decisions, including concerns of communities identified
13 pursuant to Section 39711.